

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

CHRISTOPHER SWISHER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:19-cv-00099-JPH-MJD
	)	
DICK BROWN,	)	
	)	
Defendant.	)	

**Order Denying Motion for Immediate Relief**

In this civil rights action, plaintiff prisoner Christopher Swisher complains about the conditions of his confinement. He alleges he has been held in a single-man restrictive housing cell since his transfer to the Indiana Department of Correction on January 9, 2019, without an opportunity to contest the cell assignment, and that his mental health has deteriorated as a result. In the Court's screening order, these claims were permitted to proceed. Dkt. 5.

Mr. Swisher subsequently filed a motion for immediate relief, requesting the Court order the defendant to remove Mr. Swisher from the restrictive housing unit and place him in general population so that he may receive mental health treatment. Dkt. 13. The defendant has opposed the motion for immediate relief, dkt. 19, citing Mr. Swisher's conduct history at the Delaware County Jail prior to his transfer to the Indiana Department of Correction, and his ongoing mental health treatment.

The Court construes Mr. Swisher's motion as a motion for preliminary injunction. "A preliminary injunction is an extraordinary remedy." *HH-Indianapolis, LLC v. Consol. City of Indianapolis and County of Marion, Indiana*, 889 F.3d 432, 437 (7th Cir. 2018) (internal quotation omitted). "A party seeking a preliminary injunction must satisfy all three requirements in the

threshold phase by showing that (1) it will suffer irreparable harm in the period before the resolution of its claim; (2) traditional legal remedies are inadequate; and (3) there is some likelihood of success on the merits of the claim.” *Id.* (internal quotation omitted). In addition, a portion of the Prison Litigation Reform Act provides as follows:

Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief.

18 U.S.C.A. § 3626(a)(2).

Mr. Swisher’s claims do not show that any of the factors supporting injunctive relief have been met. First, and perhaps most importantly, the defendant asserts that Mr. Swisher’s sanction would be complete, and he would be removed from restrictive housing on September 25, 2019. Dkt. 19 at 1; dkt. 19-1 at 2. It is likely that Mr. Swisher’s request for relief by being transferred out of the restrictive housing unit is moot in that respect. With respect to his mental health treatment, Mr. Swisher offers no evidence indicating he will suffer irreparable harm if he is left to litigate his claims through this lawsuit. Indeed, the defendant indicates that Mr. Swisher’s mental health is evaluated each week at his treatment meeting, and that the treatment team has not seen evidence of deterioration in his mental health. Dkt. 19 at 2. Under these circumstances, he has not shown some likelihood of success on the merits of that claim. Mr. Swisher simply has not established any of the elements required for the preliminary injunctive relief that he seeks. Therefore, his motion for immediate relief, construed as a motion for preliminary injunctive relief, dkt. [13], is **denied**.

**SO ORDERED.**

Date: 11/19/2019

James Patrick Hanlon

James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

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